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Existential phenomenology's role in understanding minority cynicism in the American legal system

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Abstract

This paper will discuss the cynicism many people of color have toward the American legal system by using the intersections between existential philosophy, Africana philosophy, black existentialism and phenomenology. This paper will explore the cynicism and lack of trust held by many American minorities toward the American legal and judicial systems primarily through the lenses of philosophy, but additionally, the disciplines of: psychology, political science, criminology and sociology will also be discussed as they are vital and unavoidable disciplines to the discussion. Therefore, the methodology of this paper is intersectionality, meaning that all of the above systems as well as the philosophical systems of: existential philosophy, Africana philosophy, and existential phenomenology work interconnectively within the context of legal cynicism . amongst American minorities.

The primary goal of this paper is to identify and describe possible causes for the lack of trust many Americans of color have toward the legal system by examining various philosophical writings from the nineteenth and twentieth centuries. It is my belief that though many of these writings were written over a hundred years ago by philosophers who came from backgrounds very different than the communities that are largely plagued by lack of trust towards the American legal system, their writings are highly pertinent and provide answers to why cynicism toward the American legal system exists among minorities today.

Degree Type
Open Access Senior Honors Thesis

Department
History and Philosophy

First Advisor
Jeremy Proulx, Ph.D.

Second Advisor
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Keywords
Existential Phenomenology, Africana Philosophy, Legal Cynicism, Race in law

Subject Categories
Philosophy

EXISTENTIAL PHENOMENOLOGY'S ROLE IN UNDERSTANDING MINORITY

CYNICISM IN THE AMERICAN LEGAL SYSTEM

By

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A Senior Thesis Submitted to the

Eastern Michigan University

Honors College

In Partial Fulfillment of the Requirements for Graduation

With Honors in the Department of Philosophy

Approved at Ypsilanti, Michigan, on September 18, 2013

Table of Contents

Abstract

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The primary goal of this paper is to identify and describe possible causes for the lack of trust many Americans of color have toward the legal system by examining various philosophical writings from the nineteenth and twentieth centuries. It is my belief that though many of these writings were written over a hundred years ago by philosophers who came from backgrounds very different than the communities that are largely plagued by lack of trust towards the American legal system, their writings are highly pertinent and provide answers to why cynicism toward the American legal system exists among minorities today.

Introduction

An important feature of this paper is that it is intended to be descriptive rather than prescriptive in its nature. In other words, this paper aims to shed light on a phenomenon that commonly escapes notice and is highly under-discussed, rather than making normative claims regarding the issue. Though a prescriptive normative thesis is ideal as a solution for this phenomenon, there must first be a general understanding of the problem and its implications before progressing to solve the problem, which is the aim of this thesis.

In this paper I will argue that many sources and explanations for the cynicism that people of color have toward the American legal and judicial systems can be found in the existential and existential phenomenological writings of the late nineteenth and early twentieth century. For this paper, legal cynicism is defined as, a lack of trust people of color have towards the legal system.

The first part of the paper will focus on what has come to be known as, *Africana Philosophy* and the roots of black existentialism. This portion of the paper will also serve as a means to lay the foundation for the roots of cynicism amongst many non-Anglo[1] Americans. Therefore, the omission of African philosophy and its influence on philosophy in general will be discussed as it directly relates to the oppression and marginalization of people of color.

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[1] For the purposes of this paper, "Anglo-American", "white", and "Caucasian" are used interchangeably to refer to the same group of people or culture. Thus "non Anglo-American", "minority (-ies)", and "people of color" is also used interchangeably to refer to those of non- white heritage.

The second portion of this paper will outline the cynicism that many Americans of color have toward the legal and judicial systems and possible sources of this particular cynicism.

The third section will discuss the history of existential philosophy, existential phenomenology, by examining the writings of various 19th and 20th century European existential and existential phenomenological philosophers. The salient aspects of these works will be discussed as they relate to the issue of minority cynicism toward the American legal system.

Throughout the entire paper the works of current philosophy scholars such as Cornel West, Lewis Gordon, and Reiland Rabaka will also be covered as a means to draw parallels between their works and the works of their predecessors in terms of possible reasons for cynicism towards the legal system in minority communities.

The goal of this paper is to show that due to the existential phenomenological experiences that people of color have had from numerous white supremacist institutions and ideologies, including the ramifications and legacies of slavery has led to their sentiments of cynicism toward the legal and judicial systems.

Ethnocentrism & the Omission of Africana Philosophy

Africana philosophy much like other branches of philosophy has been defined differently over time and there is still disagreement regarding what constitutes as Africana philosophy and how this should be decided. The definition and theories of Africana philosophy that will be used throughout this paper are based on the definition formulated by Professor of Africana philosophy at Temple University, Lewis Gordon. Gordon has written numerous books and essays on Africana philosophy and Black existentialism as well as Black Existential Phenomenology. Gordon defines Africana philosophy as, "The philosophical dimension...of the unique set of questions raised by the emergence of 'Africans' and their diaspora here [America] designated by the term 'Africana' include the convergence of most Africans with the racial term 'black' and its many connotations" (1). Gordon's work has had a profound impact on the studies of Black Existentialism and Africana philosophy and the ways in which African culture and its theories are studied and included twenty-first century thinking. In order to fully understand the salience of Africana philosophy overall and specifically its significance to the cynicism felt by many people of color toward the American legal system, it is important to discuss the history of philosophy and its African roots. It is a well-documented scientific fact that the continent of Africa is the birth place of modern civilization (). The evidence is vast and includes mitochondrial DNA (DNA that is passed from mother to daughter) as proof that African civilizations pre-dated European civilizations (Cyran et al. 2010). The evolution of humans in general as well as the evolution of human *thinking* and technological advances is also evident in Ancient African civilizations. Yet, most philosophy books, courses, lectures, and discussions credit the Ancient Greeks as the founders of philosophy.

Further, African "philosophy" and African thought is often entirely omitted from philosophical discourses. In acknowledging the myriad of achievements the Ancient African civilizations made, it is hard to imagine these civilizations *not* posing metaphysical questions or questions regarding ontology or epistemology. Surely, these Ancient African civilizations had curiosities regarding all of the above, though perhaps they did not posited these questions in the same ways the Ancient Greeks or Romans did, but surely they did ponder many of the same things. So one may ask why there is no discussion of Ancient Africans in the context of ancient philosophy. One answer may be that Africana "philosophy" does not fit easily into the narrow definition of philosophy used in the Western world, but the myopic lenses of Western philosophy is not the fault of African thinkers or their traditions. Further, there are many non- white philosophers whose philosophies, ideas, and methodologies do fit neatly into the context of Western philosophy, but their works also go unmentioned in the discipline. Thus, the omission of non-white philosophy is problematic to say the least. There has been and still exist a tendency for Western and white society to attempt to discredit and minimalize the accomplishments of those of African descent. Of course, this is not a new line of thinking nor is it one that is often addressed except for within disciplines with "Africa" in their title. Further, the notions of "abstracting away" Africa as a whole are deeply ingrained in Western culture, calling Africa, "The dark continent" is just one of the many examples that illustrate how colonialization and white supremacy have impacted global attitudes and treatment of not only the people who originate from or have close ancestral ties to the continent, but also to beliefs, and advances that have African roots.

One of the problems with the omission of African thought in regards to this paper's central topic of cynicism toward the legal system among American minorities, is that it serves as a reminder of how the dominate white culture has undermined and oppressed minorities throughout time. Meaning that, for Americans of color there are always inescapable reminders that they are perceived as inferior to whites. In turn, this only exacerbates the lack of trust they have for systems and institutions created and maintained by this dominate group.

In the context of self-perception and self identity, students of color studying philosophy are also often left feeling cynicism toward the institutions of higher education, which much like the legal system has been used a means to either perpetuate or further deteriorate the social, and socio-economic status of people of color. Thus, by omitting the achievements of non-white philosophers in academia, those of African descent feel as though the contributions of their ancestors are not seen as worthy of the recognition that is given to whites. This type of intentional omission and disregard for significant contributions made by people of color is often seen by those of African ancestry as a form of systematic racism and blatant marginalization, further leading to feelings of inferiority.

In understanding the causes of the cynicism many people of color have toward the American legal system, one must be able to understand how oppression and racism, influence the perceptions and attitudes of the world *itself* as well as one's own perceptions of himself and the space he occupies within the world. Thus, we arrive at many principles that are either existential or existentially phenomenological by nature,

and the works of Lewis Gordon and other Africana philosophers as well as black

existentialists serve to draw the parallels between European existentialism and existential

phenomenology principles and theories to those of the *lived black experience* and the

problems faced by other people of color within the context of sociological oppression,

What is it like to be a Problem? Existential Phenomenologist of Color

Dr. W. E. B Du Bois is perhaps the most well-known and influential writers of black

existence and the plight of American blacks, but many do not realize that he was also a

philosopher and political activist. As Reiland Rabaka states, "Du Bois was also a social

theorist with concrete political commitments" who was greatly involved in the liberation

of not only blacks, but also women and the poor (732). Du Bois' work has also been

essential for Africana Critical Theory, and has influenced many of the most preeminent

intellectuals and writers on the issues of race and social roles. Rabaka shows in his book,

Africana Critical Theory: Reconstructing the Black Radical Tradition, "Du Bois'

philosophy is a programmatic shift away from abstraction to engagement and solving

social injustices" (Rabaka 2006). On the issue of race and racism Du Bois' work has

added concrete significance to the need for an urgent reexamination of black's self-

identities and what it meant to *exist* as a black in a world that equates black with all

things *bad* . Accordingly, to fully discuss the sentiments held by minority Americans

there must be an understanding of where and how such feelings and sentiments arise.

Though for the purposes of this paper, I will focus on Du Bois' contributions to Africana

philosophy and the existential phenomenological experiences of people of color; this is

by no means the full extent of W. E. B Du Bois' work as previously indicated.

In *The Souls of Black Folk*, Du Bois asks the question, "How does it feel to be a problem?" This question captured the struggle of African Americans to forge and maintain an identity that was contrary to the identity given to them by Anglo-Americans. The identity casted upon blacks was one of inferiority, in which their mere existence was a problem as they were seen as a people without redeeming characteristics. What Du Bois was describing, is a problem that many people of color still face today, which is having to take other's views of them in consideration in order to develop his own identity, this is what he called the *double-consciousness.* "It is a peculiar sensation, this double consciousness...one ever feels his two-ness, an American, a Negro; two souls, two thoughts, two un-reconciled strivings; two warring ideals in one dark body, whose dogged strength alone keeps it from being torn asunder" (Du Bois 2*).* The notion of "double-consciousness" is a truly existential phenomenological idea by definition because of the idea that one is viewing one's self through the guise of others, namely, through the lenses of the majority population. This aspect of Du Bois' work is also a vital component in terms of existential phenomenology as a whole, which will be discussed at greater length below.

Discussion surrounding *double consciousness* has seen resurgence as of the last twenty years in particular, by way of what is often referred to as "code-switching". *Code switching,* refers to the ways in which an individual intentionally or subconsciously changes her lexicon, diction, and/or overall language style to fit with that of the dominate group. *Code switching* is not a new phenomenon, nor is much like double consciousness is an integral component to one being successful as a minority within the dominant society of heterosexual white males. As with other tactics employed by people of color,

code switching, has many consequences that deeply affect those engaged in the act and their overall psyche and perception of *self*.

Double consciousness is used to describe the two worlds that Blacks (and other people of color) are often subjected to and expected to adhere to. In order to function in a society dominated by whites, non-whites must constantly be vigilant in making sure they are "fitting-in" with the dominate group. Thus, I liken the notion of *double consciousness* to one "renting" or borrowing an identity from another group, the dominate group, and though this identity is not his own, and perhaps it is quite uncomfortable or ill-fitted, much like a rented tuxedo, he knows that he must bear the cumbersomeness in order to "make it in that world". Thus, having to live a life full of "putting on" a borrowed persona that is not one's true identity, but is necessary for success, often becomes tiresome and discouraging for many minorities. As Akom states in, Black Metropolis and Mental Life: Beyond the "Burden of 'Acting White' "Toward a Third Wave of Critical Racial Studies, By chronicling the problems of Black integration in a white-dominated society Du Bois's contributions not only reveal how racialized social and institutional practices maintain white supremacy but also suggest that the problems of Black Americans are not rooted in their heredity, but, rather, in their environment and the social conditions that confront them (Akom 249). The consequences of this duality are vast and often include a loss of one's *true* identity and self-perception. In terms of cynicism, it is often difficult for one to have faith or trust in a system that will not accept them as they are and requires them to change their very identity into what is conducive to their agenda.

This idea of minorities living a life of *double consciousness* is also found in the writings of Gloria E. Anzaldúa, a Latina feminist philosopher. Anzaldúa, a *Chicana* introduced the

idea of *mestizaje*. Much like Du Bois' double consciousness, *mestizaje* describes the experiences of people who must constantly play multiple roles in their everyday life in order to "mesh" into the western, heterosexual, white, male dominated world which surrounds them. In her book, *Borderlands* Anzaldúa discusses many issues that Mexican-American women face in the United States. These issues range from the language barrier to overcoming the patriarchal dominance of their culture and trying to exist in the white male dominated society of the United States. In Anzaldúa's political manifesto, *A "New Mestiza"* emerges only after she is able to develop or rediscover her identity independently of the identity forced upon her by Anglo society (Anzaldúa).

Blacks and other non-Anglo-American Americans have been seen as either a "problem" or not seen at all. Gordon argues that questions like, "what is a human being?" and "how one can become free?" makes sense because enslaved, colonized, and dehumanized people are forced to question their humanity constantly. Thus, again, here we can clearly see existentialism thought in the very ways people of color interrupt their existence and place in the world. The idea of "invisibility" is one heavily discussed by African American writers, the most notable perhaps can be seen in, Ralph Ellison's, *Invisible Man*. Ellison was one of the first African American authors to write about black's *existence* in a predominately white world.

In examining Ellison's work we can see the existential foundation that is necessary to understand why cynicism directed towards the legal system is so pervasive amongst people of color. Ellison say's that blacks are *made* to feel invisible and insignificant by the white dominated society. Thus, Ellison, the struggle for blacks is an internal struggle,

one where blacks (and others of color) must create their own reality. In particular,

Ellison's *Invisible Man* is concerned with ways to cope in society, which is different than

merely surviving. This notion of coping as a black person is very important in the

discussion of cynicism because it directly relates to what is done today in many black and

Latino communities in particular, and the need for those affected to find positive means

of creating their own identities and becoming *visible* in meaningful ways within a society

that often dismisses them or only acknowledges them in pejorative ways. Coping

strategies are seen as a means of survival by people of color and have been for centuries

as a means to control the aspects of their lives that they were able to, since much of their

lives was under the control of the dominate group, this was especially true during slavery

and the Jim Crow era. Such coping mechanisms include keeping people that pose an

imminent threat to their survival out of their neighborhoods and communities in order to

maintain sovereignty, independence and perhaps most importantly, distance from the

constraints of the system. In many cases, police or anyone else affiliated with the legal

system were not welcoming signs in minority communities, if there, they were not seen

as there to help, they were seen as there to inflict harm to the community.

In examining the totality of the above accounts of minorities constructing multiple

identities and having the ability to switch them on and off, it is clear to see the

importance of discussing phenomenology in the discussion of cynicism and how a people

become to lack trust in the system that has held them subservient for long. It should also

be noted that the need to assimilate into the dominate society or suffer the consequences,

also occurs on much smaller scales that may go unnoticed by many who actually practice

it. Examples of these subtle means of assimilation are vast, but to name a few in the

limitations of this paper; changing of one's dialect to conform to that of the dominate group, abandoning ones traditional forms of dress, and perhaps some of the most intrusive examples come from the abandonment of an individual's most core and sacred personal attributes. By this I mean changing of one's birth given for a name that is more conducive to the dominate culture and its mores or further, the forgoing of one's language and deeply cherished culture practices to assimilate into the dominate standard.

Thus, in such a system, trust and credibility is to be given to minorities only once they have stripped themselves of all things reminiscent of their native or non-Anglo-American identity. Yet, the dominate group is never asked nor expected to amalgamate to any standard that differ from their own, and yet it is expected that they are to be trusted and respected as they are regardless of the negative experiences one has had with them or from members of their group. Such a double standard is rarely discussed and when it is brought up by minorities they are viewed as being overly cynical without merit, and they are said to be lamenting on the past and treating all Caucasians as a singular entity, by accusing individuals for actions that they had no role in.

When Du Bois posed the question, "what does it mean to be a problem?" he was asking a question that is salient to the identity of people of color living in white, male dominated America. The question is, "what does it mean to exist as a direct contradiction of all that is *good*? is essentially what he was pondering, answers to this inquiry have enormous ramifications on the psychology of minorities in American culture. As the "other" Blacks, Latino(a)s, Asians, Native Americans, Arabs, women, gays, lesbians and all other "non-dominate" groups are seen and treated as secondary to the standard. Things as simple as children's toys or band aids are created to conform to the standards of the dominate group

and its culture, and all those outside of it are treated as second rate. At times, people of color may be given a small fraction of what is designated to the dominate group, as a means of pacification or to make a mends for past ills. Ethnic hair aisles in stores, special months and special scholarships are examples of trivial things that White society has *allowed* minorities to have, as an illustration of their good deeds. Yet, many minorities feel that on daily basis there inferiority and the hegemony of Anglo-American heterosexual males is pushed onto them, and the pressure to conform to the socially acceptable practices of white culture and its ideologies is enormous, in that conforming to its standards is the only gateway to success.

The Notion of Cynicism as it Relates to Oppression

"Cynicism" is defined as, "An attitude of scornful or jaded negativity, especially a general distrust of the integrity or professed motives of others" ("Cynicism").

For the purposes of this paper, "cynicism" is particular to the cynicism that people of color (non-white, black, African American, Latino (a), Native American, Arab-American, bi-racial, Pacific Islanders, and other people of color) have toward the American legal and judicial systems. Further, it is to be defined as "…a cultural orientation in which the law and the agents of its enforcement are viewed as illegitimate, unresponsive, and ill-equipped to ensure public safety" (Kirk & Matsuda 443). Additionally, legal cynicism as discussed here refers to common sentiments and attitudes of complete distrust, lack of trust, and pessimism people of color harbor toward the legal

and judicial systems and their inner-workings; the *legal system* includes: judges, attorneys, police officers, sheriffs, public defense attorneys, prosecutors, correction officers, and even juries as all of these entities come together to form one system. So, how and why are people of color skeptical in these systems that were designed to safeguards citizens from harm? The answers to this question are the central ideas of this paper, they do not only help to explain the lack of trust non-white Americans have toward the legal system, but many of the causes of legal cynicism within communities[2] of color, are also causes of many other issues that plague these same communities. But, the short answer to the question lies in *first-hand* experiences people of color have had with *the system*. It is important to note here that this cynicism being discussed here is *not* necessarily (though it can be) based on any one particular *individual* within the system, but the system *itself*. What this means is, it is not any single police officer, prosecuting attorney, sheriff, or parole officer, who is looked at as an untrustworthy individual per se, but because he/she is part of an oppressive system, he/she is part of the intrinsic problem.

In 2010, legal scholar, activist, attorney, and author, Michelle Alexander's book, *The New Jim Crow* sparked a nationwide discussion on the American prison system, institutional racism, the need for prison reform, and the many disparities that this system has produced. The book not only sheds light on the need for prison reform, but it also discusses the psychological effects of mass incarceration on young blacks and Latinos including the numerous disparities that are caused by and further perpetuated by institutional racism and laws that disproportionately target people of color. From an

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[2] "Communities" in this context, is used to describe the population of people at hand. Here, non-white Americans. Rather than "community" as in a specific geographical area.

existential phenomenological perspective, Alexander's work helps to authenticate the importance of the feelings and experiences of people of color are in understanding their lack of trust toward the legal system.

"They Don't Care If Our Children Die", Trayvon Marin's Murder and it's Affect on Black and Latino's Cynicism toward the Legal System

The *murder* of seventeen year- old, Trayvon Martin in 2012, by George Zimmerman, a neighborhood watchmen vigilante, was one of the rare times that America as a nation engaged in open dialogue on the taboo subjects of race and race relations. After George Zimmerman's acquittal on all charges, there were many protests and public comments made regarding the not-guilty verdict and what it meant to *be* black in America in 2013. For many young Americans of color, this represented the first time they had ever seen racism and race relations play out on the national stage, where everyone was involved in the discussion. This was also the first time that many young Americans of color felt like they were perhaps justified in their previously held cynicism toward the system, for what they had witnessed at a local and personal level. The murder of Trayvon Martin was a time for many to ask the all too familiar questions of, "What is a black life worth?" "What is my value within this society?" and "Why is it that if someone who looks like me is killed, and the person who did it is allowed to be free, while I cannot simply sit on my porch or drive down my street without police harassing me?"

For people of color to dissolve their cynicism toward the legal system, disparities such as these must be addressed in order to create an environment where they feel integrated and fully participate in order to bring about positive change.

The first step must be to address the roots of this cynicism and understand the legacies caused by the oppression and marginalization of American minorities. The high incidence of violence and poverty in minority communities as well as the prevalence of many other harmful, self- deteriorating activities are illustrations that there are many underlying issues in these communities. But for far too long, the blame has been placed on the individuals themselves, and it has been thought that all of the blight and ills facing these communities was the result of deliberate decisions made by those who inhabit the areas. This has been show to largely be a fallacy, and those living in crime ridden neighborhoods are actually largely opposed to crime and criminal acts in their communities (Sampson & Bartusch 783). Once viewed from the guise of phenomenology and how individuals and therefore groups of people internalize the dominant society's views on them, we can clearly see that there are a myriad of factors involved in the crime statistics and lack of distrust many Americans of color harbor towards the American legal and judicial systems. Having a strong distrust and lack of faith in the legal system is not a new phenomenon nor is it one bred from fictional accounts. Instead, the cynicism many people of color have towards the legal system is born from first-hand experiences that have directly shaped their lives in a significant manner. Another misconception about those lacking trust in the system is that they *want* to distrust the system. This is purely a fallacy, in fact those belonging to communities where there are high incidences of violence and crime, want to believe in the legal system and still have some hope that the system will be able to help them as well as their community. Unfortunately, they have experienced quite the opposite, from wrongful arrests to racial profiling; people of color have had very real tangible reasons to distrust the legal system.

The Legacies of Racism & Oppression and the Connection to Legal Cynicism

> The African-American experience of repression has been both psychoanalytical
>
> and political. The psychoanalytical pertains to psychosocial invisibility. The
>
> political and historical are the set of repressive practices that mark the modern
>
> world's relation to black communities, relations of colonization and racism. The
>
> consequence is one not only of social and political invisibility but also of
>
> historical amnesia. (Gordon AAPRAG 2)

In this quote Gordon is pointing to the source of minority's cynicism toward the

American legal system, which is the history of oppression and *otherness* that African

Americans and others have faced throughout American history. To explore this idea one

must also understand the psychological factors associated with the experiences of people

of color. When a group of people are faced with oppression and alienation for centuries

and slavery has become their most prominent legacy, the ramifications are long-lasting

and far reaching in all aspects of their identity and culture. The institution of slavery and

those who sustained it were highly aware of these long term effects, in fact it they were

systematically incorporated by the slave masters, and methodologically taught by other

"successful" masters .The goal was to not only physically enslave those of African

descent, but also to mentally enslave them, in order to sustain their enterprise. Here, one

can draw several parallels between the *institution* of slavery, and the *institution* of mass

incarceration. The idea behind mental bondage was the idea that long after the physical

bondage of slavery ended; the psychological components of slavery would still endure

and be carried from one generation to the next. Thus, the descendents of slaves would

remain *slaves* to the ideologies that were ingrained into their predecessors and subconsciously taught to them. Ultimately, such ideologies would be perpetuated independently of institutional slavery. The racism, oppression, and marginalization that people of color have faced for centuries cannot be dismissed as simply events of the past, not only because they continue today, but also because of the deep psychological scares that were embedded on the psyches of the victims to pass along to their children. Here I offer a rudimentary analogy to help clarify the connection between the past experiences of non-Anglo Americans to the current state of cynicism toward the legal system. If as a child one is taught that police are there to protect them and that they can trust them, she will probably continue to believe this throughout her childhood and into adulthood, unless something happens *directly* to her that makes her question or doubt the trustworthiness of officers. If this same little girl who is initially taught that law officials are helpful and are to be trusted, witnesses her father arrested by an officer, as well as her brother, cousins, and other men in her neighborhood she may begin to view police in a more negative light. But, as she grows older she understands that these men were arrested because of their own actions, therefore she does not harbor ill feeling toward police or the legal system. But, if in addition to these experiences, as the little girl gets older she notices that the police frequent her neighborhood more often than they do other neighborhoods, and when they do, the officers often stop and search her friends for no apparent reason and accuse them of committing crimes and search them before letting them go, she may start to distrust police. Now, if in addition to these things that she has directly experienced, she also learns that a few cities away, a young, unarmed, man of the same race as her was shot several times and killed by officers, she most likely will

develop not only a lack of trust toward the legal system and those affiliated with it, but also she may become afraid of the this institution and its power. The fear she develops as a consequence of bearing witness to these acts will be deep rooted and most likely extend to being fearful for others around her. One's direct involvement and experiences with others are what shape our understanding of the world around us, our place in the world, and even our *own* identity. For those who believe we live in a *post-racial* society, there is little evidence to offer them as to how one develops feelings of cynicism towards the legal system, but for those who have first-hand knowledge of some of this system's racist and oppressive ways, it is nearly an insurmountable task to persuade them that there is justice, equality, and that we live in a *post-racial* society.

Sources of Continuing Cynicism in Communities of Color

...neighborhoods of concentrated disadvantage display elevated levels of legal cynicism, dissatisfaction with police, and tolerance of deviance unaccounted for by socio-demographic composition and crime-rate differences. Concentrated disadvantage also helps explain why African Americans are more cynical about law and dissatisfied with the police (Sampson & Bartusch 777).

The idea of concentrated disadvantage is used to describe a geographic location where poverty and other socio-economic disparities exist. The residents of these communities are likely to see law enforcement and the legal system as oppressive and exacerbating the problems plaguing their neighborhood rather than helping to resolve these problems and

lower crime and violence. Consequently, these residents often feel as though the systems that are supposedly in place to help individuals and their community actually make things worse in their communities. Hence, this is one of the main causes of cynicism among people of color, particularly, those living in areas of concentrated disadvantage.

Another source of cynicism toward the legal system comes directly from the system itself and its vital and often deleterious role in the lives of so many American minorities. Though individuals are affected by institutional racism, racial profiling, sentencing disparities within the system, economic injustices, and unjust legislation, the ramifications affect entire communities not just the individual. A common examples of such *societal plagues* are the many men that are incarnated resulting in a large number of fatherless homes in African American and Latino communities, from this we see a higher incidence of single parent households, an increase in poverty, a higher incidence of juvenile delinquency and boys who are more likely to follow in the footsteps of their incarnated fathers (Florsheim et al. 1998) thus causing the continuation of negative and harmful cycles in the communities while also adding to the lack of trust in the legal system.

The disparities in the incarceration rates for African Americans and Latinos as compared to whites in America are astronomical; for white males over 18 years of age the rate is 1 in 106, for Latino males over 18 years of age the rate is 1 in 36, and for African American males over 18 years of age the incarceration rate is 1 in 15 (Sentencing Project, 2010). Overall, people of color account for 60% the U.S prison population (ibid).

These statistics, alongside a tumultuous history of oppression, provide insight into some of the reasons that non-whites distrust the legal system and those with affiliations to it. Additionally, such statistics also point to the need for a reassessment of our current legal system as well as the need to reevaluate, and possibly redefine the objectives and ramifications of the current system.

Existentialist Phenomenology and Cynicism

Existential phenomenology describes subjective human experience as it reflects people's emotions, intuitions, and perceptions The individual is seen as an active subject rather than a mere object in the world, in other words, humans are not simply passive and subject to the dictates of the world, but we are also a purposeful beings who have experiences and can interpret the meaning of our existence and relationships with others. The important connection between one's feelings and her relationships to others as well as the rest of the world is an essential component to existential phenomenology because feelings are relationships and are always at, or toward, or in relationship to other people and other things (Heidegger 1962).

Phenomenology is built on the idea of *lived experiences*, that is, events that one has personally lived and borne witness to. By examining the cynicism people of color have toward the American legal and judicial system by way of existential phenomenology is highly useful as it allows the focus to be on the internalization of those individuals and communities who lack trust in these systems by understanding how their first-hand experiences have shaped their feelings towards the systems at hand. Therefore, to

understand the distrust many Americans of color have for the legal system, we must know the *experiences* that have contributed to their attitudes, but even while one may "know of" experiences of another, there is still no equivalency for actually living out those experiences via a first-hand perspective. Thus, one has never experienced racism for example, can never truly *know* the full impact it has on those who have been victims of it because they themselves have not lived these experiences. An example of this would be, if a Latino man is abiding the law and a policeman gets behind him in traffic, he may think to himself, "I'm going to get pulled over and my car will be searched". This line of thinking may come from past personal experiences as being a Latino male and being stopped and frisked for no reason other than race, or it may be a result of what he has seen happen to others like him. This line of intuitive thinking about how others will negatively perceive and consequently treat you, is based on real past experiences is often what leads to cynicism towards the legal system.

Existential phenomenology blends the two concerned with an individual's *actual* experiences in the world, whereas existentialism involves existence. Phenomenology is the intuition of appearance (how do others perceive me?). Further, existential phenomenology is an attempt to understand how an event or events are perceived by an individual and how it affects them and their subsequent perceptions and behavior.

Dasein and Cynicism

The lack of trust that many people of color have toward the legal system may be best summarized by the notion that people view and *experience* themselves in the context of others in the world. This notion that as beings we see the world based on how others in it

treat and perceive us is perhaps best illustrated by the German existential

phenomenologist, Martin Heidegger. Heidegger fused together the philosophies of

existentialism and phenomenology, into what is known as existential phenomenology,

which explains human's development as arising from interactions with their everyday

world and others.

Traditionally, phenomenology is defined as, "The study of structures of consciousness as

experienced from the first-person point of view" (Leedy, 2001). In examining the

phenomenological experiences of American's of color, the objective is to understand the

perceptions, perspectives, and understandings of a particular situation. The Heideggerian

existential phenomenology is distinct from that of other European philosophers, in

particular that of Edmond Husserl. For Husserl, phenomenology was centered on

consciousness and the exploration of existence. However, for Heidegger, humans and our

actions are situated "in the world", our being is "being-in-the-world". Thus, our

experiences are created from the context of the world around us and our interactions with

it and with other beings .Heidegger says there is no "human being" as a separate or

separable entity; there is only "being-in-the-world," the human being is the sum of these

interactions (Heidegger 1962). The Heideggerian perspective involves one's interactions

with the world, known as *Dasein. Dasien,* as an idea has often been wrongly defined, and

misinterpreted and has been translated by many to mean different things, for the sake of

simplicity and the restraints of this paper, I will use one of the most widely accepted

definitions of *Dasein* which is "being-there". This definition is also compatible with

Heidegger's notion of human existence as one way during a certain period of time, but

because of events and experiences it is very possible for one to change her previous

beliefs, feelings, and interpretations of the world around her as well as her own identity. Moreover, it is social interactions, and society that help to shape one's views of the world her place within it *Dasein,* is a state of *being* that is always evolving and changing therefore one's self identity is not static. Thus, the main idea behind *Dasein* is, as humans, we are the sum of our past, present and these will affect our future, meaning the past, present, and future are interrelated, rather than distinct separate things (Ortega 7). By examining the cynicism some people of color have toward the American legal system through a Heidiggerian guise, we are looking at the experiences and interactions of the people to locate sources of their cynicism toward the legal system.

For Heidegger the *self* is an ever evolving thing that is primarily defined by its actions. with the world around it. Another Heiddeggarian concept is that of *Das Man. Das Man* can best be understood as "the they" or a way to follow the masses. This is in direct opposition to what Heidegger calls, "authenticity". Authenticity, is achieved via self-realization just as it is with Du Bois' notion of *double consciousness* and in Anzaldúa's *new mestiza.*

There are divergences between the Heidiggerian notation of *Dasein* and the *double consciousness* or the *multiple selves* felt by many people of color. Perhaps, the largest of these differences has to do with the idea of *ease* (Ortega 9). By ease, I am referring to the ability for one to feel comfortable around the dominate culture and not feel a need to play another role, but merely be able to project themselves as she normally would.

Further, the cynicism many people of color have towards the legal system, as well as other systems created and controlled by the dominate group, serves as a survival tool.

Meaning that, in order to endure generations of racism and oppression, many non-whites have adopted techniques to survive in a white male dominated society that has served as a constant reminder that their very existence is problematic and perverse. Consequently, the hegemony of Anglo-American society became equated with harm and lack of trust.

Existentialism and Cynicism toward the Legal System

For the purposes of this paper, existentialism is defined as the ways an individual or individual's relationship to the world. Existentialism as a Western concept and philosophical branch began in the 19th century with European philosophers such as: Jean-Paul Sartre, Heidegger, and Nietzsche. Though Black existentialism shares many similarities to the existentialism offered by White philosophers, there are several key differences found in black existentialism there are some key distinctions. Perhaps the largest of these differences lies in the individuality and self-centeredness of European existentialism versus the community group aspect of Africana philosophy, this is difference seen in many different disciplines that cross both Western and non-Western cultures.

Therefore, with emphasizes placed on the experience of one's culture as a whole rather than her individual experiences, black existentialism and the existentialism of other minority groups is more inclusive to their audiences than traditional European and Anglo-American philosophy. The unification of European and minority existentialism and phenomenology is arrived at by examining the specific ideas of Anglo philosophers and

drawing parallels to ideas, feelings, and sentiments commonly held by minorities as well as within minority communities. As we examine the questions posed by existential philosophers we clearly see that their search for meaning and purpose, though derived from very different contexts of those of minority philosophers, they share a common thread of questioning one's existence and place in the world and to identify the meaning of "self" and its origins.

Sartre

Jean- Paul Sartre was undoubtedly the most influential European philosopher in the fight for equality and human rights. Particularly, Sartre was a champion for black liberation and an end to oppression. Though in this paper, the work of Sartre is given only a small space for discussion, the contributions of Sartre to philosophy in general as well as to the oppression and the understanding of its affects on people of color, is well deserving of a thesis of its own.

From his critiques of the *Nègritude* (a term coined by Martiniquan poet Aimé Césaire) poetic movement in essay "Black Orpheus" to his declaration that 'Existence precedes essence' in *Existentialism is Humanism* Sartre's work has been foundational to understanding the dynamics existential phenomenology and the struggles people of color face on a global level. In terms of the cynicism people of color have toward the legal system, Sartre's writings help to give an essential point of view as an outsider looking in and as a European philosopher, he helped other whites and Europeans to understand the struggles of people of color.

Slave/ Master Morality & its effect on Cynicism in the American Legal system

The work of Friedrich Nietzsche is often used to a template of existential philosophy. The question at the center of existentialism is "what does it mean to exist?" a question still pondered today. However, this question was even more far reaching for non-Whites of the time as seen in the work of Du Bois.

The notion of slave and master morality comes from Nietzsche's *Genealogy and Morals*, here he argues that oppressed peoples tend to develop moral theories that reaffirm their inferiority and subservient traits as virtues. One of the traits of the slave is that of passivity. This idea of those being oppressed or marginalized can only be overcome by them realizing that they are being oppressed and discontinuing to be passive while it is occurring is an idea central to numerous other philosophical writers of the time. The call for revolt, rebellion, and revolution against oppression was echoed quite loudly especially by those who knew of the slave/ master dichotomy. Frantz Fanon was one of these such philosophers, though he tended to follow a more Sartean approach as opposed to a Nietzschean ideology.

The notion of religion as the "ultimate" opiate to pacify and subdue people from rebelling is how religion one of the ways religion is used by the oppressor or master culture to manipulate and maintain dominance over those whom they see as inferior to them. In regards to the experiences of minority Americans, religion, has fit this objective of passivity and compliance quite well overall. As Nietzsche explains the mindset of the slave is in direct opposition to that of the master. Slave morality includes traits such as:

altruistic where the master is egoistic, self-deceptive where the master is self- aware,

prudent while the master is willing to experiment with change, humble while the master

is proud. With these charecteristics of the g

The notion of religion has also been used to condom many of the atrocities done to

minorities by the dominate culture. We find examples of this in all aspects of American

history such as the ideology of Manifest destiny and the draconian ills done throughout

slavery to even the myriad of ways homosexuals have been treated throughout time.

Religion has thus provided not only a means for those carrying out such ills to continue

and rationalize their ways, but also as a means to keep those impacted by such harm from

uprising against it.

Within the context of the cynicism held by many American minorities, religion may serve

as a means of ending oppression and marginalization. The thought pattern that ensues is,

that if one is a true believer she must remain faithful and patient to her omnipotent,

omniscient, Omni powerful, omnipresent God in order to seek haven from the ills being

done to her and her people. The danger here arises from the lack of personal action to

those committing such ills. In this context Nietzsche's slave/ master morality would say

that the only means of freedom would be for *slaves* to rise up against their so-called

masters in order to create their destiny.

Conclusion

The proper starting point for the crucial debate about the prospects for black

America is an examination of the nihilism that increasingly pervades black

communities. Nihilism is to be understood here not as a philosophic

doctrine that there are no rational grounds for legitimate standards or authority; it is, far more, the lived experience of coping with a life of horrifying meaninglessness, hopelessness, and (most important) lovelessness. The frightening result is a numbing detachment from others and a self-destructive disposition toward the world. Life without meaning, hope, and love breeds a coldhearted, mean-spirited outlook that destroys both the individual and others (West 1991).

As this quotes shows, lacking faith in the system as a whole can be dangerous and have reaching implications that impact all of society. This is why from a sociological perspective as a society we all need to be aware of the cynicism that people of color harbor towards the legal system and the reasons for their lack of trust in the system.

There has been and continues to be an omission of the advances made by non- Anglo-Americans in all spheres of life and across disciplines. This void has often been seen as a strategic method to further discredit people of color and their contributions to society at large. The end result has too often been personal feelings of inaptitude which lead to a poor self- conceptualization. I argue that this deliberate negation of African thought in the discipline of philosophy has helped to perpetuate feelings of inferiority and inadequacies among people of African descent. When this is combined with a legal system that disproportionally incarcerates people of color, many are left feeling that the legal system's place in society is one of institutional racism and further perpetuates previous oppressions. The result is often people of color feel as though they have little or no alternatives at all in society. However, this lack of recognition helped to pave the way for the Africana thought

and Africana philosophy that began to be seen in the late nineteenth and early twentieth century.

Though, reevaluating the legal system, legislation, and enforcement is a tremendous task, it must be done for the benefit of all Americans, not only people of color. On balance, draconian policies and racial disparities affect *all* members of society and detract many from the systems credibility. Thus, though people of color directly face the daily injustices of the legal system, in the end, American society as a whole suffers from the many prerogative effects of mass incarnation and the divide that institutional racism causes within society.

Psychologist Beverley Tatum speaks of the costs that racism has on all of society in her book, *Why Do All the Black Kids Sit Together in the Cafeteria* she states: "Whether one looks at productivity lowered by racial tensions in the workplace, or real estate equity lost through housing discrimination, or the tax revenue lost in underemployed communities of color, or the high cost of warehousing human talent in prison, the economic costs of racism are real and measurable" (22). Again, the need for drastic changes in the American legal system including the prison reform, is not just the problem for those who mostly represented within these institutions. The ill effects of oppression, racism, and unjust laws affects all of society.

In terms of the existential questions relating to people of color developing their identity as separate from that of the identity that was forced and contrived by the hegemony of white culture, the discussion must involve an acknowledgement of this history by *all* groups involved. Perhaps, the need for minorities to understand their own thoughts and

identities as a part from that of the dominate society is one of the biggest obstacles to be overcome in the equation in order to demand more justice, fairness, and accountability from those in positions of power.

Again, cynicism toward the legal system has been exacerbated by of the onerous history Americans of color have experienced, especially from the hands of the American legal system. Consequently, Americans feel as though the oppression and marginalization they have faced serves as a constant reminder of their inferiority and illegitimacy in American society. Further, much of the oppression and marginalization that they face has been at the hands of the American legal system, such as the Jim Crow laws, racial profiling and institutional racism as a whole. Thus, there is a real historical context for minorities believing that "the system" does not yield positive results for people of color or their communities at large and by understanding the salience of an individuals lived experiences, there can be reform made to the systems that lack the trust of many non-white Americans, but until that occurs, it is the entire society that suffers from the ills of racism, oppression, and the marginalization of its citizens.

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